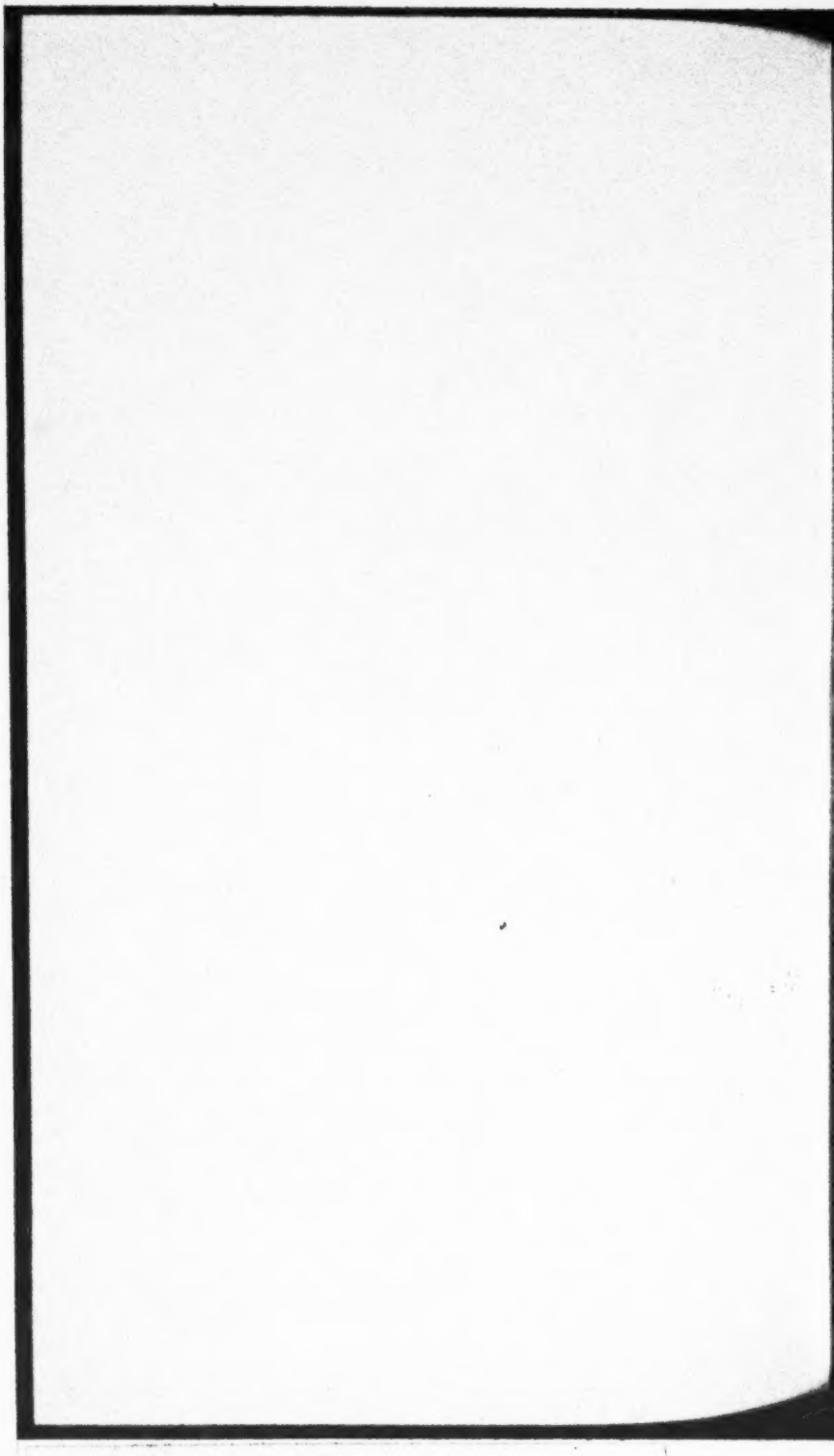

SUBJECT INDEX

	Page
Opinions Below	2
Jurisdiction	2
Questions Presented	3
Statutes Involved	3
Statement of the Case	3
Argument	10
The Petition for Writ of Certiorari Should Be Denied Because (1) the Issue Which Petitioners Raised Has Already Been Foreclosed by Decisions of This Court; (2) There Is No Conflict Among Lower Courts in the Application of Section 1404(a) to Special Venue Cases; (3) the District Court Below Applied the Correct Standard in Applying Section 1404(a) to Petitioners' Case Below; and (4) the Court of Appeals Properly Denied Mandamus Below	10
A. The Applicability of Section 1404(a) to Actions Brought Under Special Venue Statutes Is Well-Established by Prior Decisions of This Court Which Foreclose the Issue Raised by Petitioners. The Conflict or Confusion Which Petitioners Contend Has Developed in Lower Court Decisions With Respect Thereto Does Not in Fact Exist	10
B. The District Court Below Applied the Proper Standard in Applying Section 1404-(a) to Petitioners' Case in That It Gave Great Weight to Petitioners' Choice of Forum in Considering the Criteria Set Forth in Section 1404(a)	25

Page

C. The Court of Appeals Properly Denied Issuance of a Writ of Mandamus Below 26

D. Petitioners' Contentions Respecting the Action of the Courts Below and the Effect of Their Decisions on Future Securities Act Cases Is Erroneous 28

Conclusion 30

Joinder in Brief 31

Schedule A 33

TABLE OF AUTHORITIES CITED

Cases	Page
American Flyers Airline Corp. v. Farrell, 385 F. 2d 936 (2d Cir. 1967), Cert. Den. 390 U.S. 1012	26
Collett, Ex Parte, 337 U.S. 55 (1949)	11, 14, 15
Fogel v. Wolfgang, CCH Fed. Sec. Rep. Par. 92,472 (S.D. N.Y. 1969)	18, 20, 21
Ford Motor Co. v. Ryan, 182 F. 2d 329 (2d Cir. 1950)	18, 19, 21, 23, 25
Golconda Mining Corp. v. Herlands, 365 F. 2d 856 (2d Cir. 1966)	23, 24
Gold v. Scurlock, 290 F. Supp. 926 (S.D. N.Y. 1968)	23
Gulf Oil Corp. v. Gilbert, 330 U.S. 501 (1947)	16, 19, 20, 21
Herbst v. Able, 278 F. Supp. 664 (S.D. N.Y. 1967)	18, 19, 25
Kilpatrick v. Texas & P. R. Co., 337 U.S. 75 (1949)	11
Koster v. Lumberman's Mut. Casualty Co., 330 U.S. 518 (1947)	16, 18, 21, 22, 23, 25
Law v. Atlantic Coastline Railroad Co., 367 Pa. 170, 79 A. 2d 252 (1951)	15
Norwood v. Kirkpatrick, 349 U.S. 29 (1955)	11, 14, 16, 22, 23, 25, 31
A. Olinick & Sons v. Dempster Bros., Inc., 365 F. 2d 439 (2d Cir. 1966)	26
Platt v. Minnesota Mining Co., 376 U.S. 240 (1964)	27
Polychrome Corp. v. Minnesota Min. & Mfg. Co., 259 F. Supp. 330 (S.D. N.Y. 1966)	23

Page

Schlusselberg v. Werly, 274 F. Supp. 58 (S.D. N.Y. 1967) 22, 23

Schneider v. Sears, 265 F. Supp. 257 (S.D. N.Y. 1967) 18, 22, 23

Silverman v. Wellington Management Fund, CCH Sec. Law Rep. '67-'69 Dec. Par. 92,355 (S.D. N.Y. 1969) 18, 21, 22

Technitrol, Inc. v. McManus, 405 F. 2d 84 (8th Cir. 1968) 26

United States v. National City Lines, 337 U.S. 78 (1949) 11, 12, 14, 15

Van Deusen v. Barrack, 376 U.S. 612 (1964) 13, 14, 15, 16

Will v. United States, 389 U.S. 90 (1967) 26, 27

Zorn v. Anderson, 263 F. Supp. 745 (S.D. N.Y. 1966) 18, 20, 21, 25

Statutes

Federal Employers' Liability Act, Sec. 6 11

Securities Act of 1933, Sec. 17(a) 3

Securities Act of 1933, Sec. 22 ..... 3, 5, 28

Securities Exchange Act of 1934, Sec. 10b 3

Securities Exchange Act of 1934, Sec. 14(a) 3

Securities Exchange Act of 1934, Sec. 27 ..... 3, 5, 28

United States Code, Title 15, Sec. 77v 3

United States Code, Title 15, Sec. 78aa 3

United States Code, Title 28, Sec. 1254(1) 3

United States Code, Title 28, Sec. 1404(a) 2, 3, 4, 10, 11, 12, 13, 14, 15, 16, 18, 20, 21, 23, 24, 25, 27, 28, 30, 31

IN THE

Supreme Court of the United States

October Term, 1969
No. 1457

NORTHERN ACCEPTANCE TRUST 1065 by C. JON HANDY, Trustee, and DERICKSEN M. BRINKERHOFF,

vs. *Petitioners,*

HONORABLE WILLIAM P. GRAY, United States District Judge, Central District of California, and AMFAC, INC., THE LIHUE PLANTATION CO., LTD., PUNA SUGAR CO., LTD., KEKAHA SUGAR CO., LTD., THE LIHUE PLANTATION CO., LTD., a wholly-owned subsidiary of Amfac, Inc., PUNA SUGAR CO., LTD., a wholly-owned subsidiary of Amfac, Inc., KEKAHA SUGAR CO., LTD., a wholly-owned subsidiary of Amfac, Inc., WAIMEA SUGAR CO., LTD., H. A. WALKER, JR., K. H. BERG, J. RUSSELL CADES, H. C. EICHELBERGER, C. HUTTON SMITH, J. E. EDNIE, R. A. VAN ORSDEL, JR., M. A. PIETSCHMAN, THOMAS BOWMAN, WILLIAM K. DONNELLY, J. E. LOOMIS, W. A. KRUSE, W. J. BALDWIN, D. T. SILVER, WILLIAM H. BOMKE, H. LESLIE HOFFMAN, RALPH E. PHILLIPS, FRED H. MERRILL, KENNETH F. BROWN, LEROY C. BUSH, GILBERT E. COX, C. DAGGETT HARVEY, JOHN C. WALKER, RALPH T. YAMAGUCHI, S. W. WILCOX, F. W. BROADBENT, G. W. FISHER, SR., JOHN PATTERSON, HERBERT C. SHIPMAN, L. A. FAYE, JO L. FULLER, R. GREGG ANDERSON, DEAN WITTER & CO., INC., HASKINS & SELLS, FIREMAN'S FUND INSURANCE CO.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

BRIEF OF RESPONDENTS IN OPPOSITION.

Certain respondents, set forth in Schedule A hereto, submit their Brief in Opposition to the Petition for Writ of Certiorari herein, as follows:

Opinions Below.

The opinion of the United States District Court for the Central District of California which granted the motion of certain respondents under 28 U.S.C. Section 1404(a) to change venue to the District of Hawaii is not reported. A portion only of the transcript of the second hearing on said motion is set forth in Appendix A of the Petition For Writ of Certiorari herein (the "Petition") at pages A6 to A9. The formal order of the District Court is set forth in Appendix A of the Petition at pages A10 and A11.[1]

The opinion of the Court of Appeals for the Ninth Circuit, which refused to issue a writ of mandamus to compel the District Court to reverse its decision, on the grounds that (i) the Court of Appeals should not consider the matter *de novo* and substitute its judgment for that of the District Court, and (ii) the District Court had considered all of the factors required by Section 1404(a), was clearly aware of the special venue provisions of the 1933 and 1934 securities acts, and particularly had given the "strong weight" to petitioners' choice of forum required by those provisions, is reported in CCH Fed. Sec. Rep. ¶ 92,630, page 98,830 (9th Cir. 1970), and is set forth in Appendix A of the Petition at pages A16 to A19.

Jurisdiction.

The judgment of the Court of Appeals was entered on March 23, 1970. No petition for rehearing was filed.

---

[1]For fuller expositions of the District Court's views see the Reporter's Transcripts of the hearings held September 8, 1969 and December 15, 1969.

The Petition For Writ of Certiorari herein was filed on April 20, 1970. Petitioners invoke the jurisdiction of this Court under 28 U.S.C. Section 1254(1).

Questions Presented.

The sole question presented is whether or not the Court of Appeals for the Ninth Circuit properly denied issuance of a writ of mandamus to compel the United States District Court for the Central District of California to rescind its order transferring petitioners' action below to the District of Hawaii pursuant to 28 U.S.C. Section 1404(a), where it appeared that the District Court had properly considered all matters required by Section 1404(a) and had, in such consideration, given great weight to the petitioners' choice of forum.

Statutes Involved.

The pertinent provisions of the statutes involved herein, 15 U.S.C. Section 77v (Securities Act of 1933, Section 22), 15 U.S.C. Section 78aa (Securities Exchange Act of 1934, Section 27), and 28 U.S.C. Section 1404(a) are set forth in the Petition at pages 2 and 3.

Statement of the Case.

Petitioners instituted a class action and shareholders' derivative action in the United States District Court for the Central District of California against thirty-two individual defendants, ten corporate defendants and one partnership, alleging in four separate counts violations of Section 10b and Section 14(a) of the Securities Exchange Act of 1934 (the "1934 Act"), of Section 17(a) of the Securities Act of 1933 (the "1933 Act"), breach of

fiduciary duties allegedly owed by respondents to petitioners and alleged common law fraud, in connection with the mergers of three Hawaii sugar plantation companies, The Lihue Plantation Co., Limited ("Lihue"), Puna Sugar Co., Limited ("Puna") and Kekaha Sugar Co., Limited ("Kekaha"),[2] into three wholly-owned subsidiaries of Amfac, Inc., a Hawaii corporation ("Amfac").

Certain respondents moved for a change of venue under 28 U.S.C. Section 1404(a). After extensive briefing, two hearings separated by an interval during which petitioners propounded thirty-nine sets of written interrogatories on questions relating to venue and received extensive answers thereto [see Record pp. 431-930], and took seven depositions in Honolulu, Los Angeles, San Francisco and Chicago, the District Court granted respondents' motion and ordered the case transferred to the District of Hawaii.

Petitioners then filed a petition for writ of mandamus with the Court of Appeals for the Ninth Circuit, seeking to have the District Court order reversed. The Court of Appeals declined to issue the writ, stating as follows at CCH Fed. Sec. Rep. page 98,831 (Pet. pp. A 18-A 19):

> ". . . It is clear from the decision of the court rendered from the bench that all relevant factors were carefully considered and weighed, including the giving of substantial weight to petitioners'

[2]Lihue, Puna and Kekaha are sometimes collectively referred to herein as the "plantation companies".

choice of forum.[3] Review of the court's order would thus entail a *de novo* balancing by this court of the competing factors bearing upon convenience and the interests of justice. Mandamus does not and should not issue for such a review. As stated in *Kasey v. Molybdenum Corporation of America*, supra, 408 F.2d at 20:

" 'We decline to issue the writ when it appears from a well reasoned holding by the trial judge that he has considered the issues listed in 1404(a) and has made his decision accordingly. It is not our function to substitute our judgment for that of the judge most familiar with the problem.'

"[3] . . . .

"The District Court was clearly aware that the special venue provisions of the 1933 and 1934 acts dictated that strong weight be given to plaintiffs' choice of forum. These special venue provisions, of course, did not otherwise affect the applicability of § 1404(a). See *Ex Parte Collett*, 337 U.S. 55 (1949); *United States v. National City Lines*, 337 U.S. 78 (1949)."

The Court of Appeals properly concluded that the District Court had exercised its discretion within the boundaries of the applicable statutory standards including giving appropriate weight to the petitioners' choice of venue by reason of Sections 22 and 27.

Among the factors which the District Court considered, and which the Court of Appeals found to have been properly evaluated were:

1. The members of the classes of stockholders purportedly represented by petitioners are overwhelmingly residents of Hawaii. Prior to the mergers:

a. 97% of the shares of Lihue, Puna and Kekaha were owned by residents within the District

of Hawaii. Only 0.6% of the shares were owned by residents within the Central District of California.

b. 559, or 75%, of the stockholders of said plantation companies resided within the District of Hawaii. Only 39, or 6%, resided within the Central District of California [Aff. of Forrester, Rec. pp. 1051-1052].

2. Of the forty-three defendants, thirty-two are individuals, sued in their individual capacities for conspiracy to violate the 1933 Act and the 1934 Act, for fraud and for breach of fiduciary duties [Complaint, Pet. App. B, p. A20]. Twenty-eight of these individual defendants reside within the District of Hawaii. Each of these defendants is an important witness on the issues of alleged conspiracy, fraud and breach of fiduciary duty on behalf of himself and his alleged co-conspirators [Answers to Interrogatories—Change of Venue of Individual Defendants, Rec. pp. 431-724 and 734-930].

3. Lihue, Puna and Kekaha are each a sugar plantation, growing sugar cane on land in Hawaii, all of whose business and assets, primarily land, are in Hawaii [Aff. of Ednie, Rec. pp. 103-109]. The day to day operation and management of the plantation companies is entirely independent of the operation and management of the Amfac subsidiaries on the mainland [Aff. of Walker, Rec. pp. 1058-1059]. Amfac is a Hawaii corporation centered in Hawaii, which at all times mentioned in the complaint did not do business in the Central District of California [Aff. of Ednie, Rec. p. 104]. Haskins & Sells is a Hawaii partnership [Aff. of Blank, Rec. p. 110].

BLEED THROUGH POOR COPY

4. The operative facts alleged in the complaint virtually all occurred, if at all, in Hawaii. As stated by the Court of Appeals (CCH Fed. Sec. Rep. at p. 98,831, Pet. App. A, p. A19, footnote 3):

> ". . . The operative facts respecting violations of the 1933 and 1934 acts, fraud and breach of fiduciary duties, occurred in Hawaii, where the proxy statements were prepared and disseminated."

The basic contention of petitioners in their complaint is that the number of shares of Amfac stock given in exchange for stock of the plantation companies was not great enough and that the proxy statements of the plantation companies were false and misleading in material respects bearing on that issue [see Complaint, paragraphs 32, 34 and 35]. The land which is the principal asset of each plantation company, and over which the valuation dispute apparently exists, is all in Hawaii, and the proxy statements were prepared and disseminated in Hawaii by Hawaii residents [Aff. of Prior, Rec. p. 101]. All of the transactions which the complaint alleges were not disclosed in the proxy statements occurred in Hawaii [Complaint, paragraph 35]. Since the great majority of shareholders were Hawaiian residents, the proxies were mostly received and acted upon in Hawaii [Aff. of Forrester, Rec. p. 1052]. Additionally, the shareholder meetings of the plantation companies which approved the mergers were held in Hawaii [Walker II, pp. 13-15].

5. The overwhelming majority of material witnesses relating to the value of the stock of Lihue, Puna and Kekaha and of the land, assets and going concern value underlying such stock are Hawaii residents. In addition

to certain defendants, respondents contemplate calling thirty-six persons to testify as to the value of the stock of Lihue, Puna and Kekaha, directly or through valuing the land, assets and/or going concern value thereof. Of these persons all but one are residents of Hawaii, and twenty-eight are not employees of any defendant in the action below [Reply Memorandum of Points and Authorities in Support of Motion for Change of Venue, Rec. pp. 1012-1013; Ans. of J. E. Ednie to Plaintiffs' Interrogatories—Change of Venue, Rec. pp. 5-6 and 11-12]. The Court of Appeals was in error in stating that "many third-party witnesses reside in California". In fact only one such witness resides in California.

6. Petitioners made little or no attempt to show inconvenience to themselves if venue were changed. Petitioners did not indicate below that any persons other than themselves would be witnesses for plaintiffs below, and the affidavits they filed failed to indicate that their presence would be necessary at the trial [Aff. of Brinkerhoff, Rec. pp. 1000-1001; Aff. of Handy, Rec. pp. 996-997].

7. Although petitioners have ignored all other forty-two defendants and have concentrated their efforts on showing contacts of one defendant, Amfac, with the mainland United States, and have attempted to transpose this into contact with the Central District of California, the only contacts of the transaction sued upon with the Central District of California were that (i) one meeting of the Capital Study Committee of the Amfac Board of Directors was held in Los Angeles, and (ii) Messrs. Phillips and Hoefer worked out of the Los Angeles office of Dean Witter & Co., Incorporated when they prepared the appraisals of the stock of Lihue,

Puna and Kekaha referred to in the Petition. The various contacts of Amfac and its mainland subsidiaries which petitioners list in their Petition all have nothing to do with the mergers upon which the action below is based. For example, the fact that Amfac's mainland subsidiaries, which on the operational level are wholly independent of the sugar business of the plantation companies, have several thousand employees on the mainland, none of whom were in any way involved in the mergers, is wholly irrelevant. Amfac itself has only seven employees on the mainland [Aff. of Ednie, filed Dec. 12, 1969], none of whom were involved in the mergers. The only connection of the sugar plantations' business with the mainland is that a large amount of the sugar is refined and marketed by California & Hawaiian Sugar Co., a cooperative located in Northern California.[3] As the Court of Appeals succinctly stated (CCH Fed. Sec. Rep. at page 98,831, Pet. App. A, p. A19, footnote 3):

> ". . . The plantation companies for whom the petitioners act in a derivative capacity have no contact of any substance with California."

---

[3]Contrary to the inference in footnote 14 of the Petition at page 10 thereof, meetings of the board of directors of California and Hawaiian Sugar Co. are mostly held in Hawaii [Walker, p. 10].

ARGUMENT.

THE PETITION FOR WRIT OF CERTIORARI SHOULD BE DENIED BECAUSE (1) THE ISSUE WHICH PETITIONERS RAISE HAS ALREADY BEEN FORECLOSED BY DECISIONS OF THIS COURT; (2) THERE IS NO CONFLICT AMONG LOWER COURTS IN THE APPLICATION OF SECTION 1404(a) TO SPECIAL VENUE CASES; (3) THE DISTRICT COURT BELOW APPLIED THE CORRECT STANDARD IN APPLYING SECTION 1404(a) TO PETITIONERS' CASE BELOW; AND (4) THE COURT OF APPEALS PROPERLY DENIED MANDAMUS BELOW.

A. The Applicability of Section 1404(a) to Actions Brought Under Special Venue Statutes Is Well-Established by Prior Decisions of This Court Which Foreclose the Issue Raised by Petitioners. The Conflict or Confusion Which Petitioners Contend Has Developed in Lower Court Decisions With Respect Thereto Does Not in Fact Exist.

The question raised by the Petition herein does not merit review by this Court. Not only is there no conflict or confusion among circuits or among district court decisions in the application of Section 1404(a), but the issue raised by petitioners has already been foreclosed by prior decisions of this Court.

It was established shortly after the adoption of the revised Judicial Code in 1948 that 28 U.S.C. Section 1404(a), giving District Courts the power to transfer cases "for the convenience of parties and witnesses, in the interest of justice" was fully applicable to actions brought under special venue provisions, although prior

BLEED THROUGH POOR COPY

to such adoption the doctrine of *forum non conveniens* had been held to be inapplicable in at least some such cases.

Ex Parte Collett, 337 U.S. 55 (1949);

United States v. National City Lines, 337 U.S. 78 (1949);

Kilpatrick v. Texas & P. R. Co., 337 U.S. 75 (1949);

Norwood v. Kirkpatrick, 349 U.S. 29 (1955).

In *Ex Parte Collett,* the action was brought in the District Court for the Eastern District of Illinois, under Section 6 of the Federal Employers' Liability Act ("FELA"). The defendant moved to transfer the case to the District Court for the Eastern District of Kentucky under Section 1404(a), which motion was granted. The plaintiff moved for leave to file a petition for writ of mandamus, contending that Section 1404(a) did not apply to actions brought under a special venue section such as Section 6.

This Court rejected plaintiff's position, stating, at page 58:

> "The court below relied on the language of §1404(a), supra, which it regarded as 'unambiguous, direct, clear.' We agree. The reach of 'any civil action' is unmistakable. The phrase is used without qualification, without hint that some should be excluded. From the statutory text alone, it is impossible to read the section as excising this case from 'any civil action.' "

This Court stated further at pages 59 to 60:

> ". . . [T]he essence of petitioners' position is that the order below, transferring his suit, effects

a repeal of §6 of the Federal Employers' Liability Act, which granted him the right to sue in any district 'in which the defendant shall be doing business at the time of commencing such action.'

"Section 6 of the Liability Act defines the proper forum; §1404 (a) of the Code deals with the right to transfer an action properly brought. The two sections deal with two separate and distinct problems. Section 1404(a) does not limit or otherwise modify any right granted in §6 of the Liability Act or elsewhere to bring suit in a particular district. An action may still be brought in any court, state or federal, in which it might have been brought previously.

". . . We cannot agree that the order before us effectuates an implied repeal. . . ."

In *United States v. National City Lines,* 337 U.S. 78 (1949), this Court held that Section 1404(a) also applied equally to suits brought under the special venue provisions of the antitrust laws, even though the Reviser's Notes did not specifically refer to antitrust cases as being within the coverage of Section 1404(a), as they had specifically referred to an FELA case.

This Court stated, at page 81:

". . . The notes cite the Liability Act decision 'As an example of the need of such a provision.' Obviously, an example is not a complete catalogue. The use of an example implies no purpose to restrict the meaning of the statutory phrase 'any civil action' precisely to the illustration selected. Quite the contrary, the particular example noted demonstrates that Congress intended to effectuate changes in the law, in order to expand the transferability of cases. . . ."

BLEED THROUGH POOR COPY

The purpose behind the adoption of Section 1404(a) was stated by this Court in *Van Deusen v. Barrack*, 376 U.S. 612 (1964), at page 616 to be:

> "Section 1404(a) reflects an increased desire to have federal civil suits tried in the federal system at the place called for in the particular case by considerations of convenience and justice. . . . To this end it empowers a district court to transfer 'any civil action'[5] to another district court if the transfer is warranted by the convenience of parties and witnesses and promotes the interest of justice. . . .

> "[5]See Ex Parte Collett, supra, and United States v. National City Lines, Inc., 337 US 78, 93 L ed 1226, 69 S Ct 955 (interpreting 'any civil action' to include actions governed by special, as well as general, venue provisions)."

This Court further stated, at pages 635 to 636:

> "In considering the Judicial Code, Congress was particularly aware of the need for provisions to mitigate abuses stemming from broad federal venue provisions. The venue provision of the Federal Employers' Liability Act was the subject of special concern. However, while the Judicial Code was pending, Congress considered and rejected the Jennings bill which, as the Court stated in Ex parte Collett, 337 US 55, 64, 93 L ed 1207, 1213, 69 S Ct 944, 10 ALR2d 921, 'was far more drastic than § 1404(a),' and which 'would in large part have repealed [the venue section] of the Liability Act' by severely delimiting the permissible forums. This legislative background supports the view that § 1404(a) was not designed to narrow the plaintiff's venue privilege or to defeat the state-

law advantages that might accrue from the exercise of this venue privilege but rather the provision was simply to counteract the inconveniences that flowed from the venue statutes by permitting transfer to a convenient federal court. . . ."

It is clear from both the plain meaning of the language of Section 1404(a) and from the *Collett, National City Lines* and *Van Deusen* cases that Section 1404(a) was intended by Congress to apply equally to cases brought under special as well as general venue statutes.

Petitioners seek herein the adoption of a rule that no transfer may be made, as a matter of law, where the defendant has "substantial contacts" with the forum chosen by the plaintiff under a special venue provision whether or not those contacts were related to the subject matter of the action. This, of course, would effect an amendment to Section 1404(a) and remove the discretion granted to the trial court by the plain language of Section 1404(a) to transfer a case for the convenience of parties and witnesses, in the interest of justice, in *any* civil action.

The gloss which petitioners seek to engraft onto Section 1404(a) was rejected by this Court in *Norwood v. Kirkpatrick*, 349 U.S. 29 (1955). In *Norwood*, three dining car employees filed suits under the FELA in the Eastern District of Pennsylvania for injuries received in a railroad derailment of one of defendant Atlantic Coastline Railroad Company's trains in South Carolina. One plaintiff resided in Philadelphia, and the other two resided in Washington, D.C. The defendant had "substantial contact" with the Eastern District of Penn-

BLEED THROUGH POOR COPY

sylvania, as petitioners appear to define that term and apply it to Amfac herein. See *Law v. Atlantic Coastline Railroad Co.*, 367 Pa. 170, 79 A. 2d 252 (1951), referred to in the opinion of the District Court. The District Court granted defendant's motion to transfer under Section 1404(a), although it stated that it would not have dismissed under the doctrine of *forum non conveniens.*

This Court granted certiorari and sustained the transfer order, holding that the District Court had greater discretion under Section 1404(a) than under the doctrine of *forum non conveniens,* stating at page 32:

> "When Congress adopted § 1404(a), it intended to do more than just codify the existing law on forum non conveniens. As this Court said in Ex parte Collett, 337 US 55-61, 93 L ed 1207-1211, 69 S Ct 944, 959, 10 ALR2d 921, Congress, in writing § 1404(a), which was an entirely new section, was revising as well as codifying. The harshest result of the application of the old doctrine of forum non conveniens, dismissal of the action, was eliminated by the provision in § 1404(a) for transfer. When the harshest part of the doctrine is excised by statute, it can hardly be called mere codification. As a consequence, we believe that Congress, by the term 'for the convenience of parties and witnesses, in the interest of justice,' intended to permit courts to grant transfers upon a lesser showing of inconvenience. This is not to say that the relevant factors have changed or that the plaintiff's choice of forum is not to be considered, but only that the discretion to be exercised is broader."

It is apparent from *Collett, National City Lines, Van*

Deusen and *Norwood* that the issue which petitioners seek to raise has already been decided by this Court adversely to their position. It is clear from these decisions that Section 1404(a) is fully applicable to cases wherein venue is laid under a special venue statute, that the factors set forth in *Gulf Oil Corp. v. Gilbert,* 330 U.S. 501 (1947), are still the relevant factors, but that the trial court is granted a broader discretion under Section 1404(a) in disturbing plaintiff's choice of forum than was recognized in *Gulf Oil Corp.,* and may exercise that discretion to order the transfer of a case wherein, as in *Norwood,* the forum is selected under a special venue statute, is the forum of residence of the plaintiff, and the defendant has substantial contacts therewith.

The remaining decision of this Court which affects the matter of transfer under Section 1404(a), with which petitioners appear to disagree, is *Koster v. Lumberman's Mut. Casualty Co.,* 330 U.S. 518 (1947). In *Koster,* the plaintiff brought a derivative action in the Eastern District of New York against a mutual insurance company from which plaintiff purchased insurance for a premium of $250, and the president of the company and another corporation he controlled, alleging breaches of trust to the damage of the insurance company. A motion to dismiss was made under the doctrine of *forum non conveniens.* The District Court granted the motion and the Court of Appeals affirmed. After granting certiorari, this Court affirmed, stating as follows, at pages 524-526:

> ". . . In any balancing of conveniences, a real showing of convenience by a plaintiff who has sued in his home forum will normally outweigh the in-

BLEED THROUGH POOR COPY

convenience the defendant may have shown. But where there are hundreds of potential plaintiffs, all equally entitled voluntarily to invest themselves with the corporation's cause of action and all of whom could with equal show of right go into their many home courts, the claim of any one plaintiff that a forum is appropriate merely because it is his home forum is considerably weakened. . . .

". . . [I]n derivative actions, although the plaintiff may have a substantial interest of his own to protect, he may also be a mere phantom plaintiff with interest enough to enable him to institute the action and little more. . . .

"To entertain such an action places the forum in a position of responsibility toward the whole class which the plaintiff assumes to represent. To prevent collusive settlements and abuses, the Court must approve dismissal or compromise and often must give notice to the other potential plaintiffs, in this case to the other members and policyholders in whose behalf plaintiff sues and who have a right to be heard on the propriety of settlement. Rule 23, Rules of Civil Procedure. It also takes on the troublesome business of fixing allowances to counsel and accountants for the plaintiff payaole out of the defendant corporation's recovery against other defendants. Thus, such a litigation brings to the court more than an ordinary task of adjudication; it brings a task of administration; and what forum is appropriate for such a task may require consideration of its relation to the whole group of members and stockholders whom plaintiff volunteers to represent as well as to the nominal plaintiff himself."

Koster establishes that it is appropriate for District Courts, in considering motions under Section 1404(a) in derivative and class actions, to give somewhat less weight to the plaintiff's choice of forum, particularly when the great majority of parties purportedly represented by the nominal plaintiffs reside in the forum to which transfer is sought.

Despite petitioners' claims of confusion and conflict, the lower courts have uniformly applied Section 1404-(a) in the manner required by the above cases, with such variations in emphasis as exist resulting primarily from differing fact situations.

Petitioners cite *Ford Motor Co. v. Ryan,* 182 F. 2d 329 (2d Cir. 1950); *Herbst v. Able,* 278 F. Supp. 664 (S.D. N.Y. 1967); and *Zorn v. Anderson,* 263 F. Supp. 745 (S.D. N.Y. 1966) as cases in which plaintiff's choice of venue was supposedly given special weight by the lower courts, and cite *Fogel v. Wolfgang,* CCH Fed. Sec. Rep. ¶ 92,472 (S.D. N.Y. 1969); *Silverman v. Wellington Management Fund,* CCH Sec. Law Rep. '67-'69 Dec. ¶ 92,355 (S.D. N.Y. 1969); and *Schneider v. Sears,* 265 F. Supp. 257 (S.D. N.Y. 1967) as cases which failed to accord special weight to plaintiff's choice of forum in special venue cases.

Petitioners' contentions in this regard, however, will not bear analysis. In fact, the above cases all applied the same standards, but to different fact situations. In addition, all of the cited cases were decided at the trial court level by the United States District Court for the Southern District of New York. Therefore, no conflict among either circuits or district courts has been shown.

BLEED THROUGH POOR COPY

In *Ford Motor Co. v. Ryan,* 182 F. 2d 329 (2d Cir. 1950), an antitrust case, the District Court had denied a motion to change venue, where factually it appeared that the only factor favoring transfer was that more defense witnesses lived in Detroit than plaintiff's witnesses lived in New York. In denying defendant's petition for writ of mandamus, the Court of Appeals cited *Gulf Oil Corp. v. Gilbert,* 330 U.S. 501 (1947) for the rule that plaintiff's choice of forum should rarely if ever be disturbed "unless the balance is strongly in favor of the defendant". In a concurring opinion, Judge L. Hand stated that the special venue provisions of the antitrust laws gave the plaintiff a privilege which "a defendant must overcome by more than a bare balance of convenience," and that the transfer "must make the trial markedly more convenient." This appears to be no more than a restatement of the *Gulf Oil* rule.

In *Herbst v. Able,* 278 F. Supp. 664 (S.D. N.Y. 1967), which involved thirteen related actions under the 1933 and 1934 Acts, the District Court denied a motion that the matters be established as class actions, and denied motions to transfer. The Court stated the rule to be that the movants had the burden of showing that inconvenience to them outweighed the inconvenience to plaintiffs, and that plaintiffs' choice of forum was "entitled to great weight." *Herbst* cites all special venue cases in support of this proposition, but those cases in turn cite both special and general venue cases for this rule. Most significantly, the court in *Herbst* found that the inconvenience of defendant's witnesses merely balanced the inconvenience of the many plaintiffs, that transfer would merely shift the inconvenience, and that therefore plaintiffs' choice of forum should not be disturbed.

In *Zorn v. Anderson,* 265 F. Supp. 745 (S.D. N.Y. 1966), a derivative and shareholders' action for alleged violations of the Investment Company Act of 1940, the 1933 Act and the 1934 Act, the court denied a motion to change venue. The court in *Zorn* stated the rule to be that the "plaintiff's choice of forum will not be disturbed '. . . unless the balance of convenience and justice has been shown to weigh heavily in favor of the defendant.'" The court went on to state that the broad ~~board~~ venue statutes of the securities acts were designed to give allegedly defrauded investors a wide choice of forum and that where "as it appears here, one party or the other will be equally inconvenienced, plaintiff's choice of forum will not be disturbed." *Zorn* cites both special and general venue cases for the rule on the strength of the showing necessary to sustain the movant's burden upon a motion under Section 1404(a).

In summary, these cases all reiterate the rule stated in *Gulf Oil Corp. v. Gilbert,* above, that plaintiff's choice of forum is entitled to great weight and is not to be disturbed unless the balance of inconvenience is strongly in favor of defendant.

This is exactly the same standard applied in the cases which petitioners contend were confused and did not accord proper recognition to the remedial purpose underlying special venue provisions, the principal distinction being only that they involved differing facts.

In *Fogel v. Wolfgang,* CCH Fed. Sec. Rep. ¶ 92,472, page 98,230 (S.D. N.Y. 1969), a class action and derivation action alleging violation of Rule 10(b)-5, the court granted a motion to transfer the action from the Southern District of New York to the Northern District of Ohio. The court in *Fogel* cited the *Gulf*

BLEED THROUGH POOR COPY

Oil Crop. case for the standard to be applied in considering a Section 1404(a) motion. The court recognized that substantial weight is to be given to the plaintiff's choice of forum, citing the *Zorn* case, but also recognized that the "presumption in favor of the plaintiff's choice of forum is not so rigidly applied, however, in the case of derivative suits on behalf of a corporation," citing *Koster v. Lumberman's Mut. Casualty Co.,* 330 U.S. 518, 524 (1947). It appeared in *Fogel* that 68% of the members of the class plaintiff purported to represent resided in the Northern District of Ohio while only 3% resided in the Southern District of New York, four individual defendants resided in the Northern District of Ohio and only one in the Southern District of New York, most of the transactions complained of occurred in the Northern District of Ohio, although some occurred in New York, and most of the witnesses resided in the Northern District of Ohio.

After citing the *Ford Motor Co.* case for the burden which the movant's must carry, the court in *Fogel* found that they had successfully met that burden.

In *Silverman v. Wellington Management Fund,* CCH Sec. Law Rep. '67-'69 Dec. ¶ 92,355, an action under the Investment Company and Investment Adviser Act of 1940 and the 1934 Act, the court granted a motion to change venue from the Southern District of New York to the Eastern District of Pennsylvania. The court stated that plaintiff's choice of forum was entitled to considerable weight, citing two cases, one of which in turn cited the *Gulf Oil Corp.* case, and the other of which cited, among others, the *Ford Motor Co.,* case. The court also cited *Koster v. Lumberman's Mut. Casualty Co.,* above, for the proposition that in a share-

holders' derivative suit the plaintiff's choice of forum is less significant.

It appeared in *Silverman* that all but one of the individual defendants had their offices in or near the Eastern District of Pennsylvania, the alleged misconduct mostly occurred in that district, and that the corporate defendant's offices were in or near the Eastern District of Pennsylvania, as were their records and employees.

In *Schlusselberg v. Werly,* 274 F. Supp. 58 (S.D. N.Y. 1967), an action under the Investment Advisers Act of 1940 and the 1934 Act, the court granted a motion to transfer the case from the Southern District of New York to the District of Massachusetts. While the court did not discuss the appropriate standard for determining the motion, it found that all of the questioned transactions originated and were decided upon in Boston, all of the records were in Boston, and all of the defendants and their witnesses had their offices in Boston. The court indicated that these factors without more would justify transfer of the case, especially a derivative action, citing *Koster,* and noting that beyond these facts, two similar actions were already pending in Boston.

In *Schneider v. Sears,* 265 F. Supp. 257 (S.D. N.Y. 1967), an action under the 1933 and 1934 Acts and Rule 10(b)-5, the court granted a motion to transfer ten class actions from the Southern District of New York to the Southern District of Texas. The court stated that plaintiff's choice of forum was no longer entitled to the great weight given it under the doctrine of *forum non conveniens,* particularly in a class action, but was still a factor to be considered, citing *Norwood*

BLEED THROUGH POOR COPY

v. Kirkpatrick and *Koster v. Lumberman's Mut. Casualty Co.* In *Schneider,* the great majority of the individual defendants resided in Houston, only four resided in or near the Southern District of New York, the greater part of the evidence would come from sources in Houston, nearly all non-defendant witnesses resided in Houston, five plaintiffs favored transfer and five opposed it, the case could be tried fifteen months earlier in Houston because of lesser calendar congestion, and three actions were already pending in Houston.

It thus appears clear that there is in fact no confusion in the lower court decisions regarding the applicability of Section 1404(a) in special venue cases. The cases all manifest awareness of the controlling decisions, and simply apply these standards to differing fact situations, with appropriate differing results.

In this connection, it is interesting to note that Judge Wyatt of the Southern District of New York, who decided the *Schlusselberg* case, above, which petitioners' claim was "confused" in granting transfer in a Securities Act case, also decided *Polychrome Corp. v. Minnesota Min. & Mfg. Co.,* 259 F. Supp. 330 (S.D. N.Y. 1966), an antitrust action, in which he denied transfer on the ground that the defendant had not carried its burden of establishing the required "strong case" for transfer, citing the *Ford Motor Co.* case. The factual situations before the judge in the two cases were, of course, quite different.

Similarly, Judge Herlands of the Southern District of New York granted a transfer in *Gold v. Scurlock,* 290 F. Supp. 926 (S.D. N.Y. 1968), a class action under the 1934 Act, but denied transfer in another 1934 Act case, *Golconda Mining Corp. v. Herlands,* 365 F.

2d 856 (2d Cir. 1966), wherein the facts were different.

It is submitted that the confusion among the lower courts claimed by petitioners to exist with respect to the application of Section 1404(a) to special venue cases, and particularly those of the 1933 and 1934 Acts, does not exist. The different results in the cases, and the different emphasis in some of the decisions, obviously stems from the different factual situations before the courts.

The rule which petitioners ask this Court to adopt would in fact operate in an unjust and onerous fashion in many cases. They ask that the District Court be forbidden to transfer special venue cases if the defendant has "substantial contacts" with the forum chosen by the plaintiff. Such a rule would run counter to the plain language and obvious purpose of Section 1404(a).

The application of such a rule would result in great injustice in the instant case, wherein nearly all of the individual defendants reside in Hawaii, the overwhelming majority of the classes petitioners purport to represent, owning 97% of the stock involved, reside in Hawaii, the companies on behalf of whom petitioners purport to sue derivatively are in Hawaii with no contacts of any substance with California, let alone the Central District of California, all but one of the non-defendant witnesses reside in Hawaii, the operative facts out of which the action arose occurred in Hawaii, the records, land and other sources of proof are all in Hawaii, a view of the land involved could be had in Hawaii, and an earlier more expeditious trial ~~court~~ could be had in Hawaii because of the great calendar congestion of the transferor court; whereas plaintiffs have only nominal in-

BLEED THROUGH POOR COPY

terests, and the contacts of one defendant, Amfac, with California, to which petitioners devote pages of their Petition, are not connected with the subject matter of the action in any significant way.

B. The District Court Below Applied the Proper Standard in Applying Section 1404(a) to Petitioners' Case in That It Gave Great Weight to Petitioners' Choice of Forum in Considering the Criteria Set Forth in Section 1404(a).

The District Court below in fact applied the same standard set forth in *Ford Motor Co. v. Ryan,* to which petitioners point as demonstrating the proper rule.

The District Judge stated that he put great weight on petitioners' choice of forum [R. T. I, p. 10; R. T. II, pp. 20, 32][4] and that the case would not be transferred unless a "strong preponderance of factors" indicated that it should be transferred [R. T. II, p. 32].

This accords to plaintiffs' choice of forum at least as much weight as any of the Section 1404(a) cases involving special venue provisions suggest, including the *Ford Motor Co., Herbst* and *Zorn* cases cited by petitioners, and more weight than appears to have been required under *Koster v. Lumberman's Mut. Casualty Co.* and *Norwood v. Kirkpatrick.*

As noted previously, except for the petitioners' choice of forum, all of the operative facts and other factors to be considered under Section 1404(a) are centered in Hawii.

---

[4]The Reporter's Transcript of the hearing below on September 8, 1969 is referred to as "R. T. I" and the Reporter's Transcript of the hearing below on December 15, 1969 is referred to as "R. T. II".

C. The Court of Appeals Properly Denied Issuance of a Writ of Mandamus Below.

The writ of mandamus is an extraordinary remedy to be issued only in extraordinary cases.

Will v. United States, 389 U.S. 90, 95 (1967);

Technitrol, Inc. v. McManus, 405 F. 2d 84, 88 (8th Cir. 1968);

American Flyers Airline Corp. v. Farrell, 385 F. 2d 936, 937 (2d Cir. 1967) [*Cert. Den.* 390 U.S. 1012];

A. Olinick & Sons v. Dempster Bros., Inc., 365 F. 2d 439, 444 (2d Cir. 1966).

In *Will v. United States,* 389 U.S. 90 (1967), this Court delineated the scope of the writ of mandamus to review non-appealable trial court orders as follows, at pages 95 to 96:

> ". . . The peremptory writ of mandamus has traditionally been used in the federal courts only 'to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so.' Roche v. Evaporated Milk Assn., 319 US 21, 26, 87 L ed 1185, 1190, 63 S Ct. 938 (1943). While the courts have never confined themselves to an arbitrary and technical definition of 'jurisdiction', it is clear that only exceptional circumstances amounting to a judicial 'usurpation of power' will justify the invocation of this extraordinary remedy. De Beers Consol. Mines, Ltd. v. United States, 325 US 212, 217, 89 L ed 1566, 1572, 65 S Ct 1130 (1945). . . .

BLEED THROUGH POOR COPY

". . . [T]he party seeking mandamus has 'the burden of showing that its right to issuance of the writ is "clear and indisputable."' Bankers Life & Cas. Co. v. Holland, 346 US 379, 384, 98 L ed 106, 112, 74 S Ct 145 (1953); see United States v. Duell, 172 US 576, 582, 43 L ed 559, 561, 19 S Ct 286 (1899)."

In footnote 6 to its opinion, this Court in the *Will* case commented further on the use of the writ of mandamus for interlocutory appeals, as follows, at page 98:

". . . Courts faced with petitions for the peremptory writs must be careful lest they suffer themselves to be misled by labels such as 'abuse of discretion' and 'want of power' into interlocutory review of nonappealable orders on the mere ground that they may be erroneous. 'Certainly Congress knew that some interlocutory orders might be erroneous when it chose to make them nonreviewable.' De Beers Consol. Mines, Ltd. v. United States, 325 US 212, 223, 225, 89 L ed 1566, 1575, 1576, 65 S Ct 1130 (1945) (dissenting opinion of Mr. Justice Douglas)."

It is apparent that the action below is not an extraordinary case. Further, the District Court carefully considered all of the factors under Section 1404(a) and gave great weight to petitioners' choice of forum in the process.

Under these circumstances the Court of Appeals properly declined to substitute its judgment for that of the trial judge. It appears, in fact, that such substitution of judgment would have been improper [*Platt v. Minnesota Mining Co.*, 376 U.S. 240, 244-245 (1964)].

D. Petitioners' Contentions Respecting the Action of the Courts Below and the Effect of Their Decisions on Future Securities Act Cases Is Erroneous.

Petitioners contend [Pet. p. 13] that the courts below in this case both focused solely on the convenience of parties and witnesses and ignored the policy purposes underlying Section 22 and Section 27 in transferring the action to Hawaii. This is erroneous. As stated by the Court of Appeals, at CCH Fed. Sec. Rep. page 98,831 (footnote 3):

> "3. . . .
>
> "The District Court was clearly aware that the special venue provisions of the 1933 and 1934 Acts dictated that strong weight be given to plaintiffs' choice of forum. These special venue provisions, of course, did not otherwise affect the applicability of § 1404 (a). See *Ex Parte Collett*, 337 U.S. 55 (1949); *United States v. National City Lines*, 337 U.S. 78 (1949)."

Obviously, both the District Court and the Court of Appeals had the policy purposes of Sections 22 and 27 in mind and accorded them the proper weight in considering the issues under the Section 1404(a) motion and the petition for writ of mandamus.

Petitioners further contend, *ad terrorem*, that if the order transferring the action below is allowed to stand, any case brought under a special venue provision will be subject to transfer, thereby nullifying the policy purposes underlying such provisions, and particularly the "corporate therapeutics" sought by the Securities Acts.

BLEED THROUGH, POOR COPY

This contention is falsely premised and is wholly without merit.

Petitioners appear to base this contention on a view that the only factor which supported the transfer was that the residence of defendants is in Hawaii, as shown by their statement (Pet. p. 13) that, "hereafter, no case will remain in a special venue forum if the defendants reside elsewhere."

The decision of the District Court was based on far more than merely the residence of the individual defendants. Also favoring transfer was (i) the fact that the vast majorty of the members of the classes petitioners purported to represent reside in Hawaii; (ii) virtually all of the operative facts recited in the complaint as the basis of the action occurred, if at all, in Hawaii; (iii) the plantation companies on behalf of whom petitioners sue derivatively are Hawaii corporations with no contacts of any substance with California or the Central District of California; (iv) the ultimate issue below will be the valuation of the plantation companies, all of the business and assets of which are located in Hawaii; (v) the overwhelming majority of material witnesses relating to (a) the value of the stock of the plantation companies (both as to going concern value as sugar plantations and as to land and other asset values) and (b) to the non-existence of the alleged conspiracy, reside in Hawii; (vi) twenty-eight of such witnesses are third parties not employed by or controlled by any defendant and not subject to subpoena in California; (vii) only one non-party witness resides in California, whom defendants will wish to testify on their behalf in Hawaii; (viii) trial by deposition is particularly unsatisfactory in a fraud case, therefore defendants would

be prejudiced if compelled to offer the testimony of these nonparty witnesses by deposition; (ix) the testimony of plaintiffs in actions such as the action below is minimal; (x) the case involves local issues of local law which would be most appropriately tried in Hawaii; (xi) a view of the land to be valued could only be had in Hawaii; (xii) earlier and more expeditious trial could be had in Hawaii because of the congested calendar of the District Court for the Central District of Cailfornia; and (xiii) the reservoir of records and witnesses is in Hawaii.

Further, the institution of class actions under the 1933 and 1934 Acts has in no way been retarded by the many decisions in accord with the instant case below.

The overwhelming weight of factors obviously support a transfer to Hawaii, and the spectre which petitioners have tried to raise regarding the eroding effect of the case below on future actions under the Securities Acts is not supported by the facts.

Conclusion.

The District Court below applied Section 1404(a) in a manner wholly consistent with the prior decisions of this Court and the intentions of Congress. Petitioners seek adoption of a rule which would remove from the District Court the ability to consider any factors other than whether or not "substantial contacts" existed between the defendants and the forum chosen by the plaintiffs, in any action brought under a special venue provision. The adoption of such a rule would be contrary to the plain language of Section 1404(a), and would be contrary to the intent of Congress in adopting

BLEED THROUGH, POOR COPY

Section 1404(a) to mitigate the effect of special venue provisions. Additionally, petitioners' proposed interpretation of Section 1404(a) appears to have been previously rejected by this Court in *Norwood v. Kirkpatrick*, 349 U.S. 29 (1955).

The "confusion" which petitioners cite among lower court decisions as a justification for the granting of a writ of certiorari herein does not in fact exist, in that the lower courts have applied Section 1404(a) in accord with the statutory language and the prior decisions of this Court, but to widely varying factual situations, which accounts for the differing results in the cases.

For the reasons stated, the petition for writ of certiorari should be denied.

Respectfully submitted,

WALLER TAYLOR, II,
Attorney for Certain Respondents.

Of Counsel:
ADAMS, DUQUE & HAZELTINE,
LAWRENCE T. LYDICK,
BRUCE A. BECKMAN,
DAVID M. BOSKO,
CADES SCHUTTE FLEMING & WRIGHT,
C. FREDERICK SCHUTTE,
DOUGLAS E. PRIOR,
THOMAS P. HUBER.

Joinder in Brief.

I have been authorized by Rodney K. Potter, on behalf of his client, Dean Witter & Co., Incorporated, to advise the Court that in order to avoid duplicative filings, he joins in the foregoing Brief in Opposition.

WALLER TAYLOR II

Schedule A.

Amfac, Inc.

The Lihue Plantation Co., Ltd., a former Hawaii corporation

Puna Sugar Co., Ltd., a former Hawaii corporation

Kekaha Sugar Co., Ltd., a former Hawaii corporation

The Lihue Plantation Co., Ltd., a wholly-owned subsidiary of Amfac, Inc.

Puna Sugar Co., Ltd., a wholly-owned subsidiary of Amfac, Inc.

Kekaha Sugar Co., Ltd., a wholly-owned subsidiary of Amfac, Inc.

Waimea Sugar Co., Ltd.

H. A. Walker, Jr.

K. H. Berg

J. Russell Cades

H. C. Eichelberger

C. Hutton Smith

J. E. Ednie

R. A. Van Orsdel, Jr.

M. A. Pietschman

Thomas Bowman

William K. Donnelly

J. E. Loomis

W. A. Kruse

W. J. Baldwin

D. T. Silver

William H. Bomke

H. Leslie Hoffman

Ralph E. Phillips

Kenneth F. Brown
Leroy C. Bush
Gilbert E. Cox
C. Daggett Harvey
John C. Walker
Ralph T. Yamaguchi
S. W. Wilcox
F. W. Broadbent
Estate of G. W. Fisher, Sr.
John Patterson
Herbert C. Shipman
L. A. Faye
Jo L. Fuller
R. Gregg Anderson

BLEED THROUGH POOR COPY